

REMARKS

This listing of claims will replace all prior versions and listings of claims in the application. Claims 1, 35, 44-46, and 54 are amended. Claims 4, 6, 8-10, 16-34, 38, 40-43, 47-53, and 56-66 were previously cancelled. Claims 69-74 are added. Therefore claims 1-3, 5, 7, 11-15, 35-37, 39, 44-46, 54-55, and 67-74 are pending. The following remarks are provided in response to the Office Action mailed September 8, 2009 in which Examiner:

- rejects claims 1-3, 5, 7, 11-13, 35-37, 39, 44-46, 54-55, and 67-68 under 35 U.S.C. § 102(e) as being unpatentable by U.S. Pub. No. 2004/0019662 to Viswanath et al. (hereinafter *Viswanath*).
- rejects claims 14-15 under 35 U.S.C. § 103(a) as being unpatentable over *Viswanath* in view of U.S. Pub. No. 2004/0019662 to Saylor et al. (hereinafter *Saylor*).

Applicants respectfully request reconsideration of the above referenced patent application for the following reasons:

REJECTION UNDER 35 U.S.C. § 102(e)

Examiner rejects claims 1-3, 5, 7, 11-13, 35-37, 39, 44-46, 54-55, and 67-68 under 35 U.S.C. § 102(e) as allegedly being unpatentable by *Viswanath*.

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” M.P.E.P. § 2131.

Applicants amend claim 1, which is reproduced below. Independent claims 35 and 44 recite similar limitations.

Claim 1 as amended recites the following:

A method for monitoring one or more resources by a monitoring architecture, the method comprising:
assigning each of a plurality of runtime beans to the respective one or more of a plurality of resources to be monitored, wherein each of the plurality of runtime beans to provide monitoring information

regarding each of the respective one or more resources to a monitor bean associated with the runtime bean assigned to the respective resource, the monitor bean being one of a plurality of monitor beans in the monitoring architecture;

arranging the plurality of monitor beans into a hierarchical tree structure, wherein each of the monitor beans to receive the monitoring information regarding the resource to be monitored from the runtime bean assigned to the monitor bean, and wherein each of the plurality of monitor beans in the hierarchical tree structure to be individually represented as a tree node of the hierarchical tree structure;

continuous monitoring, in real-time, the plurality of resources via the plurality of runtime beans respectively assigned to the plurality of resources;

registering each of the monitor beans as a cluster by a server of the monitoring architecture, wherein the server to serve as a single point of entry for calling each of the plurality of runtime and monitor beans; and

receiving by the server of the monitoring architecture the continuous monitoring information from the plurality of runtime beans at predetermined periodic time periods, wherein the tree node associated with each monitor bean within the hierarchical tree structure provides individual reporting of the corresponding resource based on the monitoring information received by the monitor bean represented by the tree node.

Claim amendments are supported by the Specification. See, for example, Application Specification, Par. 0028, 0053, 0057, 0063-64, 0066, and 0078.

Viswanath allegedly discloses a dynamic administration framework for servers that are used at runtime for monitoring and managing the system. Viswanath, Abstract; Fig. 6; Par. 0127. However, *Viswanath* does not disclose a monitoring architecture that performs the process of **continuous monitoring, in real-time, the plurality of resources** which are then received by the server at **predetermined periodic time periods**. Furthermore, *Viswanath* does not disclose registering each of the monitor beans as a cluster by a server of the monitoring architecture, **wherein the server to serve as a single point of entry for calling each of the plurality of runtime and monitor beans**.

The lack of such disclosure in *Viswanath* means that it does not anticipate claim 1 as amended. Therefore, independent claims 1, 35, and 44 are not anticipated by

Viswanath. The remaining claims cited by the Examiner for alleged § 102(e) rejection depend from the above independent claims. Since dependent claims include all limitations of their respective independent claims, dependent claims 2-3, 5, 7, 11-13, 36-37, 39, 45-46, 54-55, and 67-68 are not anticipated by *Viswanath*. In the section below regarding § 103(a), Applicants also argue that *Viswanath* teaches away from claim 1 and so cannot be used as a valid reference for § 102(e) and/or § 103(a) rejections.

Hence, Applicants respectfully request Examiner to reconsider claims 1-3, 5, 7, 11-13, 35-37, 39, 44-46, 54-55, and 67-68 in view of the amendments.

REJECTION UNDER 35 U.S.C. § 103(a)

Examiner rejects claims 14-15 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over *Viswanath* in view of *Sylor*. Examiner admits that *Viswanath*, regarding to claim 14, does not disclose a current monitoring status that includes a color-coded indication of at least one of status of a resource being monitored among the plurality of resources, wherein the color-coded indication indicates the resource is nearing a critical value. Office Action, Page 7. Examiner also admits that *Viswanath*, regarding to claim 15, does not teach a monitoring history of the plurality of resources that is collected over a predetermined time period. Id. at 8. To cure these deficiencies, Examiner relies on *Sylor*.

Before analyzing *Sylor* in view of claims 14-15, Applicants argue that *Viswanath* teaches away from claim 1 and so cannot be used as a valid reference for § 103(a) rejection. Additionally, Applicants contend that *Sylor* alone or in combination with *Viswanath* does not cure the deficiencies of *Viswanath* regarding independent claim 1.

I. VISWANATH TEACHES AWAY FROM CONTINUOUS MONITORING IN REAL-TIME

Viswanath at best teaches away from claim 1. *Viswanath* states:

Each server may register a listener with the administration server to listen for change notification events generated by the administration framework on the administration server. Using this event notification mechanism, the listening servers may not need to access the persistent

store for updates. Instead, the servers receive notifications of changes and update their configuration contexts in memory. *Viswanath*, Par. 030 (emphasis added).

Assuming the alleged “listening” is similar to “monitoring” in claim 1, such alleged “listening” is event driven and not continuous as recited in claim 1. This means that while claim 1 continuously in real-time monitors system resources, *Viswanath* only notifies the listening servers upon an event—if no event, no need to listen and thus no need to continuously monitor. Therefore, *Viswanath* teaches away from continuous, real-time, monitoring as recited in claim 1. Hence, *Sylor* cannot be combined with *Viswanath*. Claims 14-15 depend from claim 1 and by definition include all limitations of claim 1.

II. SYLOR DOES NOT CURE THE DEFICIENCIES OF VISWANATH

Sylor allegedly discloses a method and apparatus for displaying the status of networked resources as fishbone layout. *Sylor*, Abstract; Fig. 2A; Fig. 2B. However, nothing in *Sylor* discloses the process of **continuous monitoring, in real-time, the plurality of resources** which are then received by the server at **predetermined periodic time periods**. Furthermore, *Sylor* does not disclose registering each of the monitor beans as a cluster by a server of the monitoring architecture, **wherein the server to serve as a single point of entry for calling each of the plurality of runtime and monitor beans**. The lack of such disclosure in *Viswanath* and *Sylor* means that claim 1 is not obvious by the above references because all elements of claim 1 are not disclosed by these references as required by M.P.E.P. § 2141. Claims 14-15 depend from claim 1 and so by nature of their dependency, claims 14-15 are not obvious by *Viswanath* in view of *Sylor*.

Accordingly, Applicants respectfully request reconsideration of claims 14-15 in view of the amendments.

NEW CLAIMS:

Applicants add new method claims 69-70 which depend from claim 1, new system claims 71-72 which depend from claim 35, and new machine-readable claims 73-

74 which depend from claim 44. Claims 35 and 44 recite similar limitations as claim 1.

As mentioned above, *Viswanath* does not disclose a monitoring architecture that performs the process of continuous monitoring, in real-time, the plurality of resources which are then received by the server at predetermined periodic time periods.

Furthermore, *Viswanath* does not disclose registering each of the monitor beans as a cluster by a server of the monitoring architecture, wherein the server to serve as a single point of entry for calling each of the plurality of runtime and monitor beans. The lack of such disclosure in *Viswanath* means that it does not anticipate claim 1 as amended.

Therefore, independent claims 1, 35, and 44 are not anticipated by *Viswanath*. The new claims depend from the above independent claims. Since dependent claims include all limitations of their respective independent claims, dependent claims 69-74 are not anticipated by *Viswanath*.

As discussed above, the above deficiencies are not cured by *Sylor* and so the new dependent claims cannot be obvious by *Viswanath* in view of *Sylor*. Accordingly, Applicants respectfully request consideration of the new claims.

CONCLUSION

Applicants submit that they have overcome Examiner's objections to and rejections of the claims and that they have the right to claim the invention as listed in the listing of claims. Examiner is respectfully requested to contact the undersigned by telephone if it is believed that such contact would further the examination of the present application.

Pursuant to 37 C.F.R. § 1.136(a)(3), Applicants request and authorize the U.S. Patent and Trademark Office to (1) treat any concurrent or future reply that requires a petition for extension of time as incorporating a petition for extension of time for the appropriate length of time and (2) charge all required fees, including extension of time fees and fees under 37 C.F.R. § 1.16 and § 1.17, to Deposit Account No. 02-2666.

Respectfully submitted,
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Date

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I hereby certify that this correspondence is being submitted electronically via EFS Web on the date shown below.

Date: November 3, 2009

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